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SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 February 1993, at 3 p.m.

Chairman: Mr. ENNACEUR (Tunisia)

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The meeting was called to order at 3.20 p.m.

STATEMENT BY THE PRIME MINISTER OF PAKISTAN

1. The CHAIRMAN invited the Prime Minister of Pakistan to address the Commission.

2. Mr. NAWAZ SHARIF (Pakistan) said that the Commission on Human Rights was the repository of hope for millions of human beings, especially the downtrodden and the oppressed. The world looked to the Commission to discharge its responsibilities without fear or favour, impartially applying the same standards everywhere.

3. The Charter of the United Nations reaffirmed the faith of the international community in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women. In 1948, the Universal Declaration of Human Rights had proclaimed that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth other status". Regrettably, however, the past half century was replete examples of flagrant violations of fundamental human rights in several parts of the world. During the past few years, with the easing of East-West tension leading to the end of the cold war, there had been a remarkable improvement in the human rights situation, particularly in Eastern Europe, the Baltic States, the former Soviet Union and Latin America.

4. Unfortunately, there were still areas where human rights were being blatantly violated and where human beings were subjected to inhuman and intolerable treatment. Despite considerable progress, South Africa was still far away from the goal of dismantling the hated system of apartheid. Bosnia, Palestine and Kashmir were other glaring examples of the failure to uphold and to promote the fundamental human rights enshrined in the 1948 Declaration.

5. The tragedy of Sarajevo was once again threatening peace in Europe. At the beginning of the century, a political assassination in Sarajevo had sparked off the First World War and the ensuing slaughter. The current cruel siege of Sarajevo, a symbol of Serbian savagery against Bosnia and Herzegovina, was again threatening to dismantle the structure of peace and cooperation so painstakingly erected by the nations of Europe.

6. Rarely in the annals of modern history had a nation suffered, in full view of the world, such barbarity at the hands of an aggressor. Over 100,000 Bosnians had died, often in the most cruel ways. Torture was practised by the Serbian criminals in the most callous manner. Thirty thousand Muslim women had been raped. It was difficult to comprehend how such barbarities could be committed on a continent that prided itself on its humane civilization and commitment to human rights. Milosević was apparently able to get away with aggression and mass murder, while others were bombed for lesser crimes. It was hard to understand why double standards were applied in enforcing human rights instruments and the rules of international law.

7. Fundamental human rights had also been denied to the people of Palestine, as illustrated by the illegal deportation of 400 Palestinians, abandoned in an inhospitable terrain. The continued abuse of Palestinian human rights was likely to endanger the prospects for peace in the Middle East.

8. In South Asia, religious intolerance was yet again threatening social peace and stability. Fundamental human rights included the freedom of thought, conscience and religion. On 6 December 1992, a fateful day for the Muslims of India, their religious freedom had been subjected to a fierce and ruthless assault. Two hundred thousand Hindu fanatics had been allowed to destroy the 500-year-old Babri Mosque, a sanctified monument of Islamic heritage. Hindu extremists had since targeted another 3,000 mosques and Muslim shrines in India for desecration and destruction.

9. An orgy of communal violence had been let loose following the destruction of the Babri Mosque. Thousands of Muslims had been killed in cold blood and several thousand Muslim homes put to the torch, while hundreds of thousands had been forced to abandon their homes to escape the forces of bigotry and fanaticism.

10. There were some countries from which people fled because their basic human rights were being violated and others in which people sought refuge because their fundamental freedoms were honoured and respected. Over the past decades, Pakistan had played host to the largest influx of refugees known in recent history. Over 3 million Afghans had lived for 14 years in his country and would return voluntarily to their liberated homeland with dignity and honour.

11. Jammu and Kashmir was another area where fundamental human rights, including the right to self-determination, were being persistently denied to the people. Most of the nations of Asia and Africa had gained their freedom through self-determination and denial of that right to the people of Kashmir represented a major failure in the impartial application of human rights standards.

12. Kashmir was the unfinished business of 1947, when Pakistan and India had gained their independence. In its various resolutions on the subject, the Security Council had decided that the final disposition of the State of Jammu and Kashmir would be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under United Nations auspices. India's first Prime Minister, the late Mr. Jawaharlal Nehru, had repeatedly affirmed India's commitment to "let the people of Kashmir decide".

13. Unfortunately, India had reneged on that commitment and had refused to implement the Security Council resolutions calling for an impartial plebiscite in Kashmir.

14. After enduring decades of oppression, the people of Indian-held Jammu and Kashmir had launched a popular movement to demand their freedom in January 1990. The movement had been peaceful, spontaneous, widespread and self-sustained. It had been pursued through marches and demonstrations. The violence in Kashmir had been initiated by the Indian security forces

on 21 January 1990, when they shot and killed more than 100 unarmed demonstrators in Srinagar. Since that time, a campaign of brutal suppression had been conducted by half a million Indian troops in Kashmir. Those forces were above the law, free from any restraint, and immune from any investigation into or punishment of their conduct.

15. Over the past three years, at least 10,000 Kashmiri men, women and children had been killed, many of them in cold blood by the security forces. Young Kashmiri men, including eight- and nine-year-old boys, were the usual targets. They were rounded up in search-and-destroy operations, taken for interrogation in prisons or army camps, routinely subjected to the cruellest forms of torture, and later killed in staged "encounters".

16. The Indian forces had tried to break the spirit of the resistance by dishonouring Kashmiri women. Rape was common and was often committed against the women of an entire village. At times, whole localities were put to the torch. Funeral processions were fired at, mosques desecrated, hospitals raided, and doctors prevented from treating the tortured and the injured. Despite such repression, the struggle for freedom in Indian-occupied Kashmir had continued to gather momentum.

17. Throughout history, the only effective answer to a brutal invader had been militant struggle and resistance. That had been the answer of the European resistance to the Nazi occupation, and of the Afghans to the Soviet intervention. Those struggles had been hailed as heroic freedom movements. The Kashmiri struggle for freedom was equally legitimate and to denigrate it as terrorism was a travesty.

18. India's attempt to portray the Kashmiri struggle as instigated and sustained by his country was a transparent alibi. Pakistan's people were praying for the success of that struggle and his country offered the Kashmiris its moral, political and diplomatic support, but it did not provide them with military assistance. His Government had proposed that impartial observers should be stationed in Kashmir to verify Indian allegations of interference and the Indian Government's refusal to accept that proposal exposed the hollowness of its allegations against his country.

19. The world was at a crucial juncture in the battle against oppression and intolerance. The end of the cold war had raised hopes for international harmony and cooperation. At the same time, the forces of narrow prejudice and national ambition had been revived.

20. The international community had a responsibility to create new structures of peace based on justice, equality, and impartiality. That obligation was eloquently spelt out in the United Nations Charter and the Universal Declaration of Human Rights. The Commission on Human Rights had a vital role in ensuring that the provisions of the Charter and the Universal Declaration of Human Rights were implemented faithfully and impartially. Humanity could not afford double standards in applying those universal principles. Selective justice led to the perpetuation of injustice. Rights could not be sacrificed on the altar of might.

21. The essence of human civilization lay in its ability to tame the dark forces of caprice with the rule of law. It was unthinkable that Kashmir, Bosnia and Palestine should be treated differently. The United Nations had committed itself to avoiding discrimination and double standards when it had proclaimed that "all human beings are born free and equal in dignity and rights" and that "everyone is entitled to all the rights and freedoms set forth in this Declaration".

22. The Commission on Human Rights had a crucial role to play in responding to that challenge and in evolving a new, just and humane architecture of peace and cooperation among free peoples in the twenty-first century.

23. Mr. CHANDRA (India), speaking in exercise of the right of reply, said he was disappointed that the Prime Minister of Pakistan had sought to score political points against India by making totally false allegations concerning the destruction of the Babri Mosque, the situation of minorities, and Jammu and Kashmir.

24. The unfortunate destruction of the Babri Mosque had been immediately condemned in the strongest possible terms by the highest authorities in his country and comprehensive remedial measures had been promptly taken by the Government, including the arrest of the guilty, the dismissal of the State Government, the banning of communal organizations, the setting up of a judicial inquiry, and a decision to build a mosque and a temple. All those measures were in line with his country's long tradition of respect and tolerance for all religious beliefs and practices.

25. Pakistan's own record in that area did not bear comparison. In Pakistan, as many as 245 temples and several churches had been destroyed and, in many cases, the Hindu and Christian communities had been victimized with Government connivance and support. While his own Government had sought to restore law and order and make reason prevail over communal passion, Pakistan had done the opposite. Indeed, the recent communal rioting in some parts of his own country had been exacerbated by inflammatory rhetoric and action from across the national frontiers.

26. His delegation deeply regretted the recent events, but to argue that any single community had been victimized was grossly incorrect, since all Indians had suffered. It was simply not true that minorities were victimized in his country, and complete equality and respect for all religions was not only enshrined in the Constitution but protected by democratic institutions.

27. Jammu and Kashmir was an integral part of India and the legal validity of its accession had never been challenged. Pakistan had invaded the state in 1947 and, because of its failure to withdraw, the plebiscite provided for in the United Nations resolution had never been held. Free elections had taken place on a number of occasions in Jammu and Kashmir, and the State's constituent assembly had freely endorsed its accession to India. That situation was well-documented and was open for the world to see, since there was no ban on visits to the area by private individuals, journalists or members of the diplomatic community.

28. Pakistan's call for self-determination was a unilateral attempt to alter the status quo and to undermine India's secular fabric. It was clear that self-determination was not applicable to integral parts of sovereign States. The current situation in Kashmir had been created by Pakistan's support for terrorist violence and secessionist activities. It had provided training in sabotage and the use of weapons and equipment, as well as financial support, weapons and ammunition. Since 1988, the terrorists had killed over 2,700 innocent people and destroyed hundreds of Government buildings, educational institutions, bridges and other installations.

29. Allegations against the Indian security forces, which were striving to protect innocent men, women and children from ruthless terrorism, were unwarranted and unfounded. Maximum restraint was being exercised and any excesses were dealt with through prompt disciplinary measures and the payment of compensation. Efforts had been made to camouflage the true situation in Jammu and Kashmir by means of a carefully designed and executed plan involving terrorist violence, coercion and an orchestrated smear campaign.

30. Mr. HOSSAIN (Pakistan), speaking in exercise of the right of reply, said that the United Nations had adopted several resolutions with the consent of both India and Pakistan on the granting to the people concerned of their legitimate right to self-determination through a free referendum under United Nations auspices. The Commission would note that India had reneged on that solemn commitment.

31. With respect to the assertion that the issue of Kashmir had been resolved through so-called free elections in the territory, he wished to draw attention to the statement made by the Minister of Home Affairs of India in December 1989 that all elections in Kashmir had been rigged except those held in 1977.

32. With regard to the Indian representative's statement that there were no restrictions on visits to Kashmir by any foreigners, including journalists, his own delegation hoped that a fact-finding mission from the Commission would be allowed to investigate allegations of human rights abuses in Kashmir. In that connection, he noted that a delegation from Amnesty International had recently been refused entry to the territory.

33. The Babri Mosque had been demolished as part of a premeditated action. According to an article by an Indian journalist in The Nation, dated 8 December 1992, the Prime Minister of India had been informed by the intelligence bureau a week in advance that the real purpose of the demolition was to destroy the symbol of Islamic architecture. There had, unfortunately, been a spontaneous popular backlash in Pakistan which had lasted for no more than 36 hours. His Government had taken strong action and he was pleased to inform the Commission that four Hindu temples had already been repaired. He would welcome a statement from the Indian representative to the effect that his Government would continue taking similar action with regard to the Babri Mosque.

34. Unlike the situation in India, all sectors of the community in Pakistan, all political parties and the Government had resolutely condemned the destruction of Hindu temples.

35. Lastly, he drew attention to an interview, published in Time magazine on 26 January 1992, with a Hindu chauvinist leader whose organization had massacred some 3,000 Muslims in Bombay and who wanted to expel all Muslims from India.

36. Mr. CHANDRA (India), speaking in exercise of the right of reply, said that the representative of Pakistan was well aware that one of the basic conditions for a plebiscite in Jammu and Kashmir was the cessation of aggression. It was Pakistan which was till occupying part of the territory and preventing the holding of a plebiscite.

37. Kashmir was open to journalists and, tourists and in an open society, there was no need for visits such as that proposed by the representative of Pakistan.

38. The Indian delegation preferred to abide by the legitimate definition of self-determination and human rights. It was essential to make a distinction between cases where incidents had occurred for reasons beyond the control of a Government and those instigated and abetted by a Government itself. Member States should be judged not by the crimes committed by misguided individuals or groups but by the speed and effectiveness with which their Governments took remedial action. He was pleased to hear that four temples in Pakistan had already been repaired and hoped that the other 200 would be repaired soon.

39. His Government deeply regretted the demolition of the Babri Mosque, which had been caused by mob violence. His delegation had provided information on the remedial action taken by the Government and hoped that the international community would support its efforts to maintain India as a secular democratic country that guaranteed equal treatment for all minorities, including the Muslims.

40. It was noteworthy that the severest condemnation of the destruction of the Mosque had come from the highest authorities in India, including the Government, the majority community and the Indian media.

41. Mr. HOSSAIN (Pakistan), speaking in exercise of the right of reply, said, with regard to the situation in occupied Kashmir, that a prominent Indian journalist had told him that no one supported India's presence in the territory and that the Government was trying to control it by brute force. The only issue in Kashmir was India's State terrorism. The brutal crimes committed against the Muslims there should be condemned and taken into account by the Commission.

42. He hoped that the Commission or Amnesty International would be allowed to send a fact-finding mission to Kashmir so that its members would be able to examine the situation prevailing there.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1993/3, 6, 9, 12, 13 and 70-74; A/47/76, 262 and 509)

43. Mr. HOYOS (Austria) said that his Government had supported the regional peace conference for the Middle East from its very inception. A workable

solution could be reached on the basis of Security Council resolutions 242 (1967) and 338 (1973), the principle of "land for peace", the right of the Palestinian people to self-determination and the right of all States in the region to exist within safe and secure boundaries.

44. His delegation trusted in the continuation of the dialogue thus initiated which was the only alternative to further violence and bloodshed. A solution in the Middle East could be achieved only if the human rights of the Palestinian people were truly respected by the occupying Power.

45. Unfortunately, the peace process had not yet brought about any real change in the unsatisfactory human rights situation in the occupied territories. Under the pretext of "maintaining security", the occupying Power violated the human rights of Palestinians, detaining them without any court procedures. Recent months had witnessed increased harassment of the families of wanted persons and a growing use of excessive force during military operations in the occupied territories. Clearly, that would not help the peace process.

46. His delegation appealed to the Israeli authorities to implement Security Council resolution 799 (1992) and to ensure the immediate and safe return to the occupied territories of all the deported Palestinians, for whose well-being Israel, as occupying Power, bore the primary responsibility, and not the Government of Lebanon. It was incomprehensible that Israel could justify forcing people to leave the occupied territories without even informing their families.

47. It was high time that Israel accepted the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) to the occupied territories. That would be a real confidence-building measure and would enhance the peace process.

48. The new Israeli Government had cut back significantly on the demolition of houses, and it was to be hoped that that practice would cease completely. Unfortunately, information had been received about great destruction in the course of military operations; and his Government appealed to all parties to desist from further violence, which only aggravated the situation.

49. The Fourth Geneva Convention should in no way be seen as the only source for Israel's legal and moral obligations towards the Palestinian population in the occupied territories. The Convention provided only a minimum protection during armed conflicts. In times of peace, much more comprehensive standards for the protection of human rights should be applied.

50. One of the most important obligations of the occupying Power should be to promote the economic development of the Palestinian population. The closure of the borders and the imposition of curfews in the occupied territories deprived many Palestinian workers of their incomes and was detrimental to their overall economic situation. Access to water sources continued to be restricted. The development of the economy in the occupied territories would be an important contribution to the peace process.

51. There was also a pressing need for a rapid realization of forms of self-government that would give the Palestinian population a functioning legal and judicial system. His delegation was concerned at the many deficiencies in hospitals in the occupied territories, another field where self-government would have a positive impact.

52. The establishment of Israeli settlements in the occupied territories still gave cause for concern. Settlements violated article 49, sixth paragraph, of the Fourth Geneva Convention. The announcement by the new Israeli Government that it would significantly diminish the number of new settlements it was prepared to support was a positive development.

53. Ms. PARK (Canada) said that the past year had opened the possibility that a just and lasting peace could be within reach in the Arab-Israeli conflict. The welcome attitude of the new Israeli Government on the peace talks had awakened expectations, which would either be fulfilled or would result in deepening resentment: there was no returning to the status quo ante.

54. After 40 years of confrontation, the lesson should be clear that violence would never offer a solution to the conflict. In 1992, genuine efforts had been made to reduce the level of tension and to improve the life of the residents of the occupied territories, but her Government was still distressed at the continued serious human rights violations and the high incidence of violence.

55. For the first time in years, all universities in the occupied territories were open. Certain Palestinians visiting relatives in the occupied territories had been allowed to remain there for renewable six-month periods. A number of sealed houses and streets had been reopened. Nevertheless, other measures of collective punishment persisted, such as the imposition of disproportionate curfews, expulsions and the demolition of houses, and Canadian officials had expressed her Government's serious concern to the Israeli authorities in that regard.

56. Following a hunger strike by Palestinian prisoners, the Israeli authorities had agreed to implement a series of measures to improve detention conditions. Some political prisoners had been released. In the case of minor offences, the detention period before suspects were brought before a judge had been reduced. However, the number of so-called administrative detentions - a practice which violated all forms of jurisprudence - remained high and had increased again in December. Furthermore, disturbing and reliable reports continued of the use of torture and other forms of ill-treatment during interrogation in detention.

57. The past year had not seen an end to the almost daily tragedies associated with the conflict, often involving women and children. Deaths resulting from the use of firearms by the military, the police and undercover units were said to have increased by 60 per cent over the previous year. Half of the victims of undercover unit activities were alleged to have been unarmed. A 30 per cent increase had been reported in internecine killings among Palestinians, and armed attacks on Israelis were commonplace.

58. Her Government appreciated the security requirements of Israel and its concern to protect its citizens. But, pending a settlement allowing withdrawal from territories occupied in 1967, the military occupying Power must conform to the standards defined by international humanitarian law. Thus, although Canada had condemned the recent murder of an Israeli soldier, it was also shocked that the incident had led to the expulsion of 415 Palestinians, an action of unprecedented scale that the Secretary of State for External Affairs, Barbara McDougall, had strongly deplored. Such mass deportations fed the anger that drove the intifada and disturbed world public opinion.

59. Her Government had welcomed the authorization of relief supplies by the Israeli authorities and the return of some of the deportees as steps towards a solution in accordance with the Geneva Convention and Security Council resolution 799 (1992). It expressed its satisfaction at the assurances given by the Palestinian and other negotiating parties that the deportations must not be allowed to place the peace process at risk: such were the stakes involved in an issue which played into the hands of the advocates of violence.

60. Canada had a long-standing commitment to peace-keeping in the region and was involved in multilateral working groups, in particular the Refugee Working Group. The first steps towards peace required the implementation of concrete confidence-building initiatives by both sides, designed to bring the parties to the conflict into systematic and mutually beneficial contact. Adequate economic and social conditions must be fostered, so that an atmosphere of confidence could take root in the occupied territories. The confidence-building process was closely linked with the need to entrench humanitarian law and respect for individual and collective human rights.

61. Such steps presupposed a shared willingness to implement Security Council resolution 242 (1967), with its balance of obligations for each of the parties concerned. In the meantime, the legal regime instituted by the international community for situations of military occupation was the Fourth Geneva Convention. There could be no more significant confidence-building measure than the recognitio. by Israel that the Convention applied de jure in the West Bank and Gaza. Conscious that such applicability was warranted under international law, her delegation nevertheless believed that the Palestinian leadership, which had had the strategic sense to accept Security Council resolution 242 (1967), could facilitate such a move by developing proposals to meet Israeli security concerns.

62. Her Government remained determined to play as effective a role as possible in breaking the cycle of violence, in ending the conflict and in creating the conditions needed for the peaceful development of the region. The political will demonstrated by the parties to discuss all issues and resolve the conflict was encouraging. Her Government was also impressed by the courage and good work of the United Nations agencies, notably the United Nations Relief and Works Agency (UNRWA), and of the International Committee of the Red Cross (ICRC) in alleviating the suffering of the people of the occupied territories. Ultimately, however, it rested with the parties themselves to establish human rights as the firm foundation of peace and of

their own future. Her delegation was still convinced that respect for human rights and the promotion of democratic values constituted the best guarantee that peace, once negotiated, would be durable.

63. Her delegation regretted that no consensus or near-consensus had been reached in 1992 on the Commission's human rights resolutions concerning the occupied territories. The peace process had changed the Middle East landscape, and it was to be hoped that the resolutions adopted at the current session would fully reflect that new reality. It was important to avoid inflammatory language, which had less to do with human rights than with political jockeying for position in the Middle East. The Commission must concentrate on human rights issues and avoid politicizing the debates, lest its work lack credibility and impact. Her delegation intended to work closely with others to that end.

64. Mr. HOSSAIN (Pakistan) said that his delegation joined others in condemning the Israeli deportation of more than 400 Palestinians from the occupied territories, especially as many of those deported were doctors, engineers and other professional men: the action thus amounted to economic strangulation. The root cause of the violations of the human rights of the Palestinians was essentially political, and such violations were a threat to peace and security in the Middle East.

65. The expulsions had triggered an explosion of violence in the occupied territories of the West Bank and Gaza; 25 Palestinians had been killed, including seven children under the aged of 15. In that connection, the State Department of the United States had reported the previous week that 158 Palestinians had been killed in clashes with Israelis in 1992, an increase of 60 per cent over 1991.

66. The international community must uphold universal application of the principles of human rights. It must ensure strict compliance with Security Council resolution 799 (1992) so as to put an end to the violations of the human rights of the Palestinians.

67. His delegation commended the International Committee of the Red Cross on the positive role it had played following the deportation.

68. Mr. BENHIMA (Morocco) said that, at the Commission's previous session, the Israeli representative had made an optimistic statement with regard to the Middle East peace negotiations. However, Israel had taken no steps since then to implement the relevant resolutions adopted by the Commission. He therefore wondered how long Israel would continue to ignore the resolutions adopted by the Commission and other United Nations bodies concerning the deteriorating situation in the occupied territories.

69. In that connection, he recalled the expulsion, in 1992, of some 400 Palestinians from their country and that, despite international condemnation of that illegal action, Israel continued to be inflexible in its attitude. The Security Council must find a solution that would enable those people to return home in accordance with the wishes expressed by the entire international community.

70. He drew attention to the curious situation whereby Israel was using every possible means to suppress the intifada and to deprive the Palestinian people of its rights while at the same time negotiating with representatives of that people with a view to achieving peace in the region. It was thus by no means clear that Israel really wished to achieve peace and to respect the rules of international law.

71. Many circles in the Middle East had welcomed the change of Government in Israel in 1992 and hoped that the new Government would adopt a policy different from that of the former one. However, they had been sorely disappointed, since the new administration continued to follow the policy of the previous one.

72. With regard to the situation in Jerusalem, he recalled that the Committee established by the Islamic Conference under the chairmanship of King Hassan II of Morocco was making every effort to preserve the identity and heritage of that city. King Hassan had said in a statement to the Heads of State attending a meeting of the Security Council in January 1992 that the Arab and Islamic peoples had always shown flexibility and still wished to cooperate with the other side but that, unfortunately, their initiatives were always met by political intransigence and the use of force. To build confidence and ensure peace in the region, there must be an effective implementation of all the relevant resolutions.

73. In conclusion, he drew attention to the tragic situation of the Arab population in Syrian Golan and southern Lebanon and said that pressure must be brought to bear on Israel to persuade it to withdraw in accordance with the resolutions adopted by the international community.

The meeting rose at 5.15 p.m.